

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES
Bureau of Waste Management
90 East Union Street - 2nd Floor
Wilkes-Barre, PA 18701-3296
(717) 826-2516

109143

issued
8/12/88

In the Matter of:

Midlantic Coast Delivery Systems, Inc.	:	Unpermitted Storage and Disposal
Foster Township	:	of Hazardous Waste
Luzerne County	:	

ORDER

The Commonwealth of Pennsylvania, Department of Environmental Resources ("Department") has made the following determinations:

A. The Department is the executive agency of the Commonwealth with the authority and duty to administer and enforce The Clean Streams Law, the Act of June 22, 1937, P.L. 1987, as amended, 35 P.S. §691.1 et seq. ("CSL"); the Solid Waste Management Act, the Act of July 7, 1980, P.L. 380, 35 P.S. §6018.101 et seq. ("SWMA"); the Air Pollution Control Act, the Act of January 8, 1960, P.L. 2119, as amended, 35 P.S. §§4001 et seq. ("The Air Act"); Section 1917-A of the Administrative Code, the Act of April 9, 1929, P.L. 177, as amended, 71 P.S. §510-17 ("Administrative Code"), and the Rules and Regulations of the Environmental Quality Board promulgated thereunder.

B. Midlantic Coast Delivery Systems, Inc. ("Midlantic") is a New Jersey corporation doing business in Pennsylvania and has a place of business located in Foster Township, Luzerne County, at Route 940, Pennsylvania.

AR103015

C. New West Wreath Company owned and operated a manufacturing facility located on and including a parcel of land in Foster Township, Luzerne County ("Facility"), which produced Christmas tree wreaths for a period of years between January 19, 1954 and December 18, 1973.

D. Ronald J. Davis, Sr. purchased the Facility and also produced Christmas tree wreaths between December 18, 1973 and April 20, 1978.

E. Delbert Dougiallo purchased the Facility and continued to produce Christmas tree wreaths between April 20, 1978 and September 1982.

F. The Facility ceased operation on or about September 1982. A building located at the Facility contains vats used in the treatment/production of Christmas tree wreaths. These vats contain a waste liquid.

G. Midlantic purchased the facility in September 1982 for the purpose of operating a storage and/or transfer facility for manufactured goods distributed along the east coast.

H. Analytical results of samples of the waste liquid contained within the vats described in Paragraph F herein, collected by representatives of the Department on December 9, 1987, revealed that the liquid is a hazardous waste, EP toxic for cadmium and lead, waste codes D006 and D008. This hazardous waste has been stored and/or disposed of at the property without notification to the Department and without interim status or a permit from the Department, in violation of 25 Pa. Code §§75.267 and 75.272(a) and Sections 401(a), 403(b), 501(a), and 610(1), (2), (4) and (9) of the SWMA, 35 P.S. §§6018.401(a), 6018.403(b), 6018.501(a) and 6018.610(1), (2), (4) and (9).

I. Midlantic does not have, and has not had since at least July 7, 1980, a permit from the Department for the storage and/or disposal of solid and hazardous waste pursuant to the SWMA.

J. The conduct of Midlantic described in Paragraphs H and I herein constitutes unlawful conduct pursuant to Sections 401(a), 403(b), 501(a) and 610(1), (2), (4), and (9) of the SWMA, 35 P.S. §§6018.401(a), 6018.403(b), 6018.501(a) and 6018.610(1), (2), (4), and (9).

K. The unlawful conduct of Midlantic described in Paragraphs H and I herein constitutes a public nuisance pursuant to Section 601 of the SWMA, 35 P.S. §6018.601.

L. The conditions at the Midlantic property constitute a common-law nuisance and a threat to the public health and safety and to the environment.

NOW, THEREFORE, this 12th day of August, 1988, pursuant to Sections 104(1), (6), (7) and (13), 401(a), 403(b), 501(a), 601, 602, and 610(1), (2), (4), and (9) of the SWMA, 35 P.S. §§6018.104(1), (6), (7) and (13), 6018.401(a), 6018.403(b)(9), 6018.501(a), 6018.601, 6018.602, and 6018.610(1), (2), (4), and (9), and Section 1917-A of the Administrative Code of 1929, 71 P.S. §510-17, and 25 Pa. Code §§75.261, 75.262, 75.264, 75.265 and 75.267, it is hereby ORDERED as follows:

1. Midlantic shall immediately cease the storage and/or disposal of all solid and hazardous waste on the property located in Foster Township, Luzerne County.

2. Midlantic shall submit to the Department by August 27, 1988, any and all information pertaining to solid and hazardous wastes stored and/or disposed of on the property, including but not limited to the following:
 - a. The names of the generators of any solid and hazardous wastes stored and/or disposed of on the property.
 - b. Any and all information regarding the nature and characteristics of the solid and hazardous wastes including any chemical and physical analyses and description of the wastes.
3. Midlantic shall perform or have performed by a person qualified to do so, sampling and analysis on the waste material described in Paragraph H herein; to determine an appropriate method of transportation and disposal for said waste. Midlantic shall submit all sampling data, analysis and/or reports/results to the Department at the same time it submits the plan as required by Paragraph 6 herein.
4. Midlantic shall within thirty (30) days of the issuance of this Order submit a plan for assessment of the extent of any soil, surface water and/or groundwater contamination and the limits of the area where the unpermitted storage and disposal activities have occurred.
5. Midlantic shall notify the Department of the name of the person that will carry out the requirements of Paragraphs 3 and 4 herein,

so that the Department can ascertain whether the person is qualified to do so. Such notification must occur within seventy-two (72) hours of the issuance of this Order.

6. Within thirty (30) days of the issuance of this Order, Midlantic shall submit to the Department a plan which:
 - a. describes all steps to be taken to remove all solid and hazardous waste from the property;
 - b. includes a timetable for the completion of these measures;
 - c. identifies the facility to receive the solid and hazardous waste.
7. Midlantic shall amend the plan as required by the Department within five (5) days of receipt of notice from the Department that the plan must be amended.
8. Within forty-five (45) days of the issuance of this Order, Midlantic shall remove all solid and hazardous waste stored and disposed of on the property to a facility permitted to accept such waste.
9. Within ten (10) days of transporting the solid and hazardous waste to a permitted facility, Midlantic shall submit to the Department, written documentation that the permitted facility has accepted the solid and hazardous waste.

10. All submissions required by the foregoing paragraphs shall be sent to the Pennsylvania Department of Environmental Resources, Bureau of Waste Management, 90 East Union Street - 2nd Floor, Wilkes-Barre PA 18701-3296, Attention: David J. Lamereaux, Regional Solid Waste Manager.
11. Upon the Department's written approval or approval with modifications of the submissions required by Paragraphs 2, 3, 6 and 9, Midlantic shall carry out any plans in those submissions as approved or approved with modifications, including and schedules contained therein. The said submissions shall become a part of this Order and become enforceable as such.

This action of the Department may be appealable to the Environmental Hearing Board, 101 South Second Street, Suites Three - Five, Harrisburg, Pennsylvania 17101, (717) 787-3483 by any aggrieved person pursuant to Section 1921-A of the Administrative Code of 1929, 71 P.S. Section 510-21; and the Administrative Agency Law, 2 Pa. C.S., §§501-08 and 701-04. Appeals must be filed with the Environmental Hearing Board within thirty (30) days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the regulations governing practice and procedure before the Board may be obtained from the Board. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

David J. Lamereaux
DAVID J. LAMEREAUX
REGIONAL SOLID WASTE MANAGER